



PATENT
P57000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

JASON E. ZIRK et al.

Serial No.: 10/780,855

Examiner: *To be Assigned*

Filed: 19 February 2004

Art Unit: *To be Assigned*

For: FOLDING KNIFE LIGHT TOOL

RESPONSE TO NOTICE TO FILE MISSING PARTS OF
NONPROVISIONAL APPLICATION AND
PETITION UNDER 37 C.F.R. §1.181

Mail Stop: Missing Parts

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully petitions under 37 C.F.R. §1.181 and §1.53(b) from the error and misconduct by the Initial Patent Examining Division in issuing a Notice to File Missing Parts dated 13 May 2004 of the above-captioned U.S. patent application, and as reasons set forth, states that:

Folio: P57000

Date: 5/17/04

I.D.: REB/sb

Enclosures: 1) A copy of the signed Declaration and Transmittal of Declaration filed on 19 February 2004
2) A copy of date-stamped postcard receipt of the signed Declaration filed on 19 February 2004
3) Part 2 of Notice to File Missing Parts of Nonprovisional Application dated 13 May 2004

STATEMENT OF FACTS

1. On the 19th of February 2004, Applicant's undersigned attorney filed the above-captioned U.S. patent application in the U.S. Patent & Trademark Office, together with two (2) pages of Declarations, with one page signed by the first named inventor, and second page immediately attached thereto, signed by the second named inventor.
2. The Declaration signed by the first named inventor, Jason E. Zirk, was placed immediately beneath Applicant's "Transmittal of Declaration".
3. A postcard receipt stamped by the mail room of the U.S. Patent & Trademark Office bearing Serial No. 10/780,855 and U.S. filing date of the 19th of February 2004, confirms the filing of the executed original Declaration. A copy of that postcard receipt accompanies this Petition.
4. Copies of the Transmittal and two (2) accompanying Declarations are attached to this Petition.
5. Applicant's cover letter accompanying filing of this application stated that "please find attached hereto ... original declaration and power of attorney identified below."

REMARKS

The repeated practice of the Initial Patent Examining Division in breaking the bulk of U.S. patent applications, scattering several pages of the applications and then falsely asserting filing of an incomplete application, is reprehensible and should be corrected immediately.

In the instant application, the executed Declaration was filed, with Declaration of Jason E. Zirk signed and placed between the transmittal letter and Declaration of the joint-inventor. A postcard receipt confirms the filing of the original Declaration, as those Applicant's letter of transmission of the application. There is no basis for the levying either the late fee or declaration surcharge against the Applicant.

This is in fact, contrary to U.S. law and borders on extortion, a criminal misdemeanor under title 18 of United States code.

RELIEF REQUESTED

Accordingly, the Commissioner is therefore respectfully requested to:

- A. Confirm, in writing, that the Declaration of each of the two (2) joint inventors, were received in the U.S. Patent & Trademark Office on the 19th of February 2004, and that each Declaration was signed by the corresponding inventor;
- B. Confirm in writing that the Notice to File Missing Parts was issued in error;

- C. Remove the demand for the payment of a late oath or declaration surcharge;
- D. Forward the application to the Examiner without further delay, for completion of the examination on the merits;
- E. Grant Applicant's request for issue of United States patent; and
- F. Grant such other and further relief as justice may require.

Respectfully submitted,



Robert E. Bushnell,
Attorney for the Applicant
Registration No.: 27,774

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For: FOLDING KNIFE LIGHT TOOL

Transmittal of Declaration

COPY

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COPY

Sir:

This transmittal accompanies the original Declaration for the above-referenced application.

Respectfully submitted,

Robert E. Bushnell
Attorney for the Applicant
Registration No.: 27,774

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